SENATE BILL 1442:
Senior Circuit Breaker Tax Benefit

BILL ANALYSIS

Committee:	Senate Finance	**Date:**	July 30, 2007
Introduced by:	Sen. Snow	**Summary by:**	Dan Ettefagh
Version:	PCS to First Edition S1442-CSMC		Committee Counsel

SUMMARY: The PCS for Senate Bill 1442 would create a senior property tax homestead deferral system based on certain qualifications and income requirements of owners of permanent residences located in North Carolina.

CURRENT LAW: Under current law, the only homestead property tax benefit is found in G.S. 105-277.1, the property tax homestead exclusion. Under the homestead exclusion, North Carolina residents who are at least 65 years of age or totally and permanently disabled and who meet the income eligibility limit[1] may exclude from taxation the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the permanent residence.

BILL ANALYSIS: Senate Bill 1442 proposes a property tax deferral benefit for North Carolina residents who have owned and occupied property located in the State as a permanent residence for at least five years and are either 65 years of age or older or totally and permanently disabled. The amount of taxes deferred would be based upon the income eligibility limit of the property tax homestead exclusion. Under this system, an owner who met the requirements of the circuit breaker benefit and made less than the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds four percent (4%) of the owner's income. An owner who met the requirements of the circuit breaker benefit and made between the income eligibility limit and one and one-half times the income eligibility limit could elect to defer the portion of taxes imposed on the permanent residence that exceeds five percent (5%) of the owner's income.

Taxes deferred via the circuit breaker benefit would accrue interest and become a lien on the real property of the taxpayer. The general rule is that these deferred taxes would be carried forward until the death of the owner or until the owner transfers the property, at which time the amount of taxes for that year with no circuit breaker benefit plus those taxes deferred for the preceding three fiscal years, together with interest would become due and must be paid within nine months after the date of death or transfer. An exception to this rule exists, allowing the deferral to continue where the residence is transferred to the former owner's spouse, if the spouse qualifies for the circuit breaker benefit, occupies the property has a permanent residence, and elects to continue deferral.

If the owner ceases to use the residence as a permanent residence for a reason other than a temporary absence for reasons of health or an extended absence while confined to a rest home or nursing home while the residence remains either unoccupied or occupied by the owner's spouse or other dependent, the owner loses the benefit of the circuit breaker, and the deferred taxes become due and payable at the same time the tax levied on the residence in that year is due. If the owner fails to qualify for the circuit

[1] The income eligibility limit until July 1, 2003 was $18,000. For taxable years beginning on or after July 1, 2003, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to Social Security benefits, rounded to the nearest $100. In 2006, the income eligibility limit was $19,700.

breaker benefit for a taxable year but continues using the property as a permanent residence, no deferral is allowed for that year but deferred taxes from earlier years do not become due.

Other provisions in the bill include:

- The assessor must annually notify each owner electing this tax benefit of the accumulated sum of deferred taxes and interest.
- Prepayment of all or part of taxes deferred to the tax collector is allowed at any time, with partial payments applied first to accrued interest.
- A qualifying owner may revoke a tax deferral application at any time by written notification to the assessor.
- Mortgagees or trustees electing to pay taxes deferred by a qualifying owner do not acquire a right to foreclose as a result.
- Provisions in mortgages, deeds of trust, or other agreements prohibiting a qualifying owner from electing the circuit breaker benefit are void.
- Where property is owned by two or more persons other than husband and wife, all owners must qualify and elect the circuit breaker benefit for it to be available to any of the qualifying owners.
- The tax benefit under this section may not be combined with the property tax homestead exclusion. Owners qualifying for both types of property tax benefit must elect which to utilize.

EFFECTIVE DATE: This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

S1442e1-SMMC-CSMC